

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS**

THOMAS R. SAUNDERS,

Plaintiff,

v.

**CIVIL ACTION NO. 2:12-CV-38
(BAILEY)**

**MICHAEL J. ASTRUE,
Commissioner of Social Security,**

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge John S. Kaull. By Local Rule, this action was referred to Magistrate Judge Kaull for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Kaull filed his R&R on February 4, 2013 [Doc. 15]. In that filing, the magistrate judge recommended that this Court deny the defendant's motion for summary judgment, grant the plaintiff's motion for summary judgment and remand the action to the Commissioner of Social Security.

Pursuant to 28 U.S.C. § 636 (b) (1) (c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo*

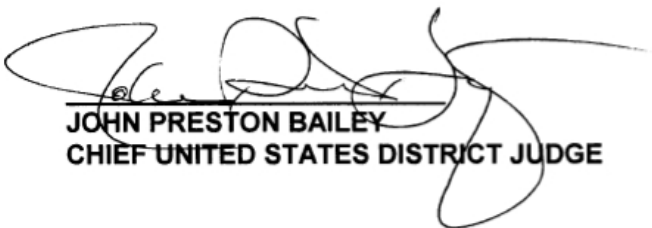
review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Kaul's R&R were due by February 21, 2013. To date, no objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the report and recommendation, it is the opinion of this Court that the magistrate judge's Report and Recommendation [**Doc. 15**] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. As such, this Court hereby **GRANTS** the plaintiff's Motion for Summary Judgment [**Doc. 10**] and **DENIES** the defendant's Motion for Summary Judgment [**Doc. 12**]. Accordingly, this Court hereby **REMANDS** the plaintiff's Complaint [**Doc. 1**] to the Commissioner of Social Security. Therefore, this matter is hereby **ORDERED STRICKEN** from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record.

DATED: February 22, 2013.


JOHN PRESTON BAILEY
CHIEF UNITED STATES DISTRICT JUDGE

